

Office of the Chapter 13 Standing Trustee

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December 4, 2024

The Honorable Andrew B. Altenburg, Jr.
United States Bankruptcy Court
P.O. Box 2067
Camden, New Jersey 08102

**RE: Chapter 13 Bankruptcy
Case No. 18-12877 (ABA)
Debtor(s) Name: Howard Stalker, III**

Dear Judge Altenburg:

Please accept this letter in lieu of a more formal response to Debtor's Motion to Vacate Dismissal Order, which is returnable Tuesday, December 17, 2024, at 10:00 a.m.

Debtor filed for Chapter 13 bankruptcy protection on February 14, 2018. On July 19, 2021, Debtor filed a Modified Chapter 13 Plan in accordance with The CARES ACT extending the length of plan to 84 months and rolling post-petition mortgage arrears into the plan pursuant to the Order Curing Arrears entered May 25, 2021.

On April 19, 2022, an Order Confirming Modified Chapter 13 Plan was entered by the Court at \$33,640 paid to date, then \$1,029 for 35 months. On August 6, 2024, an Order Granting CitiMortgage, Inc. Relief from the Automatic Stay was entered by the Court. Therefore, on August 16, 2024, the Trustee sent a letter to Debtor and Debtor's counsel advising that the Order Vacating the Automatic Stay made the case unfeasible as confirmed and requested steps be taken to address feasibility issues. No actions were taken; therefore, a Trustee's Motion to Dismiss was filed on September 30, 2024.

On October 25, 2024, Debtor filed opposition to the Trustee's Motion to Dismiss stating a modified plan to account for the relief from stay was forthcoming. However, Debtor's counsel failed to contact the Chapter 13 Trustee prior to the hearing scheduled for November 15, 2024. As a result, the Trustee recommended dismissal of Debtor's case on November 15, 2024.

Ten (10) days after entry of the Order Dismissing Case, a Motion to Vacate Dismissal Order was filed with the Court. Again, Debtor states that a modified plan is forthcoming upon

reinstatement of his case and seeks to complete his plan. The Trustee objects.

Pursuant to 11 U.S.C. §1329(c) “a plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under 11 U.S.C. § 1325(b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years of such time.” As such, the Chapter 13 Trustee is not able to recommend confirmation of a modified plan filed in the 82nd month of the case.

If an Order Vacating Dismissal Order was entered, it is the Trustee’s opinion that the only recourse Debtor has to address the feasibility issues are to either file a Motion to Reinstate the Automatic Stay or enter a Consent Order with the mortgagee surrendering the property and instructing the Chapter 13 Trustee to make no further disbursements to the secured creditor.

Unless Debtor takes the necessary measures to reinstate the automatic stay or surrender the property via Consent Order prior to the hearing, the Debtor’s Motion to Vacate Dismissal Order should be denied.

As always, please feel free to contact this office with any questions or concerns.

Respectfully submitted,

s/ William H. Clunn, III

William H. Clunn, III
Attorney for Andrew B. Finberg,
Chapter 13 Standing Trustee

WHC/jpa

cc: Lee M. Perlman, Esquire (Via email & ECF/CM)
Howard Stalker, III (Via First Class Mail)